

REMARKS

Claims 1, 3, 8-17, 19-20, 24-32, 34-37 and 39-50 are pending the subject application. Claim 2, 4-7, 18, 21-23, 33, 38 and 51-54 have been canceled. No claims have been indicated to be allowable.

Applicants' wishes to thank Examiner Maewall and her Supervisor for the personal interview held at the United States Patent and Trademark Office on April 21, 2009 with Applicant Gary J. Calton and Beverly J. Artale, Esq. During the interview, Applicants explained the differences between their invention and the inventions disclosed in Lowery et al and Ukai et al. references. Possible amendments to the claims to overcome the teaching of these prior art references alone or in combination were also discussed. No agreement was reached during the interview.

35 USC 103

Claims 1-3 and 5-54 stand rejected under 35 USC 103 (a) as being unpatentable over Lowry et al (US PG PUB 20020007878) in view of Ukai et al. (JP 411228450A). This rejection is respectfully traversed.

Briefly, Applicants' claims, as now amended, recite a method of inhibiting the undesirable taste of an amino acid component in an orally administrable composition, and to orally administrable amino acid containing compositions used in the method. The method comprises adding a carrageenan to the amino acid containing composition in a specified amount which is effective to mask the undesirable taste of the amino acid component. Oral compositions comprising at least one amino acid and carrageenan are also claimed by Applicants.

The Examiner has relied upon the Lowry et al. reference to teach a nutritional product comprising an amino acid, i.e. L-arginine, for a person having renal failure.

The Examiner has admitted the deficiencies in the Lowry et al reference to render obvious Applicants' invention as now claimed. That is, the Examiner admits that Lowry et al discloses that the composition may contain carrageenan as a stabilizer in a stabilizing amount. The Examiner also states that Lowry et al. fails to teach the use of a carrageenan as a taste masking agent and teaches the lactic, malic or adipic acid or a combination of citric acid and citrates as taste-suppressants.

To cure the deficiencies of Lowry et al, the Examiner has relied on Ukai et. al in an attempt to show that it would be obvious to use a carrageenan in the composition as disclosed in Lowry et al to mask the undesirable taste of an amino acid, e.g. L-arginine. Ukai discloses masking the taste of a **basic medicine** such as for example denopetil hydrochloride (chemical name; 1-benzyl-4-(5,6-dimethoxyindanon-2-yl)methylpiperidine hydrochloride) which may have an unpleasant bitter taste. Ukai et al is silent with respect to an **amino acid component or the use of a carrageenan to mask the strong flavor specific to an amino acid component**. Consequently, there is not teaching or suggestion in Ukai et al or Lowry et al to motivate skilled in the arts to have a reasonable expectation that a carrageenan in any amount would successfully mask the undesirable taste of an **amino acid component**.

This position is especially held since (as shown by Sarama et al, U.S. Patent 6, 794,375, see page 6 (a copy enclosed)) it was well known around the time of Applicants' invention, and even still today, that amino acids, e.g. L-arginine, not only have a bitter taste but also possess a **strong fishy flavor** which is difficult to mask. Further, since delivery of relatively large amounts of amine acids is generally required to achieve desirable health benefits there is an increasingly expectation of difficulty to mask the **strong, bitter and fishy flavor of an amino acid**.

Clearly, Lowry teaches away from using a carrageenan as a masking agent but teaching the use of the carrageenan as a stabilizer in a stabilizing amount, e.g. 0.03% to about 1% (see Applicant's specification at page 9, lines 19-26.) (see also,) Further, Ukai makes **no mention of an amino acid or masking the strong fishy flavor thereof**. Consequently, the only motivation to combine the teaching of

the two references is impermissible hindsight motivation based on Applicant's own disclosure.

For reasons as stated herein above, both Lowry et al or Ukai et al, taken alone or in combination, fail to render obvious Applicants' invention as now claimed. Accordingly, this rejection is improper and should now be withdrawn.

Claims 1-3, 8-20, 24-37 and 39-54 stand rejected under 35 USC 103 (a) as being unpatentable over Ukai et al. (JP 411228450A) in view of Acosta et al (U.S. Patent 5, 550,146). This rejection is respectfully traversed.

For reasons as stated herein above, Ukai et al. fails to teach or in any way suggest an amino acid component or the use of a carageenan (or any other masking agent for that matter) to mask the strong fishy flavor specific to an amino acid component. Herein again, amino acids not only possess a bitter taste but a strong fishy flavor which is difficult to mask. Consequently, Ukai et al. fails to render obvious Applicants' invention as now claimed.

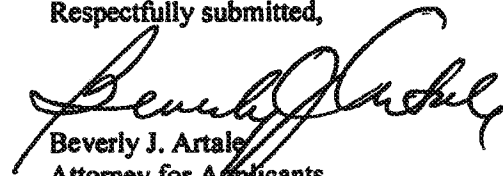
To cure the deficiencies of the Ukai et al. the Examiner has relied on Acosta et al. to evidence that amino acids are known in the art to have a bitter taste. Acosta discloses a nutritional formula which uses specific free amino acids to provide the source of amino nitrogen. Acosta is silent with respect to the use of a carrageenan to mask the taste of an amino acid. The Examiner has alleged that Acosta teaches that it is known in the art that amino acids have a bitter taste. Applicants admit that it is known that amino acids have a bitter taste. Applicants go further to evidence (see Sarama et al,) that amino acids not only have a bitter taste but a characteristic foul fishy odor as well that is difficult to mask especially in large amounts generally used for medicinal purposes. Clearly, neither of the references teaches or suggest the requisite motivation to lead one skilled in the arts to have a reasonable expectation that the distinct foul fishy amino acid odor can be masked by a carrageenan in the amount as claimed by Applicants.

While obviousness does not require absolute predictability, it does require a reasonable expectation of success. One cannot base a determination of obviousness on what the skilled person might try or find obvious to try. Rather, the proper test of

obviousness requires determining what the prior art would have led the skilled person to do.

For reasons as stated herein above, it is believed that Applicants' invention as now claimed is patentable over the herein cited prior art. Accordingly, allowance of claims 1, 3, 8-17, 19-20, 24-32, 34-37 and 39-50 of the subject application is requested.

Respectfully submitted,



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